

Remarks

Claims 1-24 and 26-31 are pending in the subject application. By this Amendment, Applicant has amended claim 1 and 3, and added new claim 32. Support for the new claim and amendments can be found throughout the subject specification and in the claims as originally filed. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 1-24 and 26-32 are currently before the Examiner. Favorable consideration of the pending claims is respectfully requested.

As an initial matter, Applicant gratefully acknowledges the Examiner's indication that claims 9 and 14-15 are objected to but would be allowable if rewritten into independent form to include the limitations of any base and intervening claims.

Claims 1-7, 10, 16, 26, and 31 are rejected under 35 USC §102(e) as anticipated by Adams (U.S. Patent No. 6,540,781). The Examiner asserts that the Adams patent teaches a vessel-like structure having a first end adapted for surgical attachment to a left ventricle, a second end adapted for surgical attachment to an aorta, and, interposed between the first and second ends, a sinus portion configured in the shape of the sinuses of Valsalva in a human aortic valve, wherein a sinus portion has an ostium made of animal tissue. Applicant respectfully traverses this ground of rejection.

Applicant respectfully asserts that the Adams patent does not teach or suggest the claimed invention. The Adams patent is concerned with homografts that comprise living tissue and that can be satisfactorily cryopreserved. By this Amendment, Applicant has amended claim 1 to recite that the vessel-like structure is composed of a synthetic material. Support for the Amendment can be found throughout the subject specification including, for example, at page 6, lines 1-5. Applicant further notes that amended claim 3 recites the element of an artificial vessel connected to an ostium on the sinus portion. Applicant also notes that claims 16 and 26 specify that the ostium is located on the sinus for optimal fluid dynamics and blood flow. The Adams patent does not teach or suggest locating the ostium for optimal fluid dynamics and blood flow. In order to anticipate, a single reference must disclose within the four corners of the document each and every element and limitation contained in the rejected claim. *Scripps Clinic & Research Foundation v. Genentech Inc.*, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). In the instant case, the cited patent fails to teach each and

every element of the claimed invention and, therefore, does not anticipate. Accordingly, reconsideration and withdrawal of the rejection under 35 USC §102(e), is respectfully requested.

Claims 8, 11-13, 17-24, and 27-30 are rejected under 35 USC §103(a) as obvious over Adams (U.S. Patent No. 6,540,781) in view of Kruse *et al.* (U.S. Published Application No. 2004/0024452). The Adams patent is cited for the teachings set forth in the rejection under 35 USC §102(e). The Examiner asserts that the Kruse *et al.* publication teaches the use of coatings such as heparin. The Examiner also asserts that it would have been obvious to an ordinarily skilled artisan at the time of the present invention to coat the device in the Adams patent with drugs in order to provide desirable surface properties. Applicant respectfully traverses this ground of rejection.

Applicant respectfully asserts that the cited references, taken alone or in combination, do not teach or suggest the claimed invention. Applicant hereby incorporates in their entirety the remarks concerning the Adams patent as set forth in regard to the rejection under 35 USC §102(e). The Kruse *et al.* publication is relied upon as teaching the use of coatings such as heparin. Thus, the Kruse *et al.* publication does not remedy the deficiencies of the Adams patent. Claim 8 of the subject application specifies that the valve does not comprise animal tissue. As noted previously, the Adams patent does not teach or suggest the use of synthetic material for the prosthesis. In order to support a *prima facie* case of obviousness, a person of ordinary skill in the art must find both the suggestion of the claimed invention, and a reasonable expectation of success in making that invention, in light of the teachings of the prior art or the knowledge of a person of ordinary skill in the art. One finds neither the suggestion in the cited references, nor the required reasonable expectation of success of arriving at Applicant's claimed invention. Accordingly, Applicant respectfully asserts that the claimed invention is not obvious over the cited references. Reconsideration and withdrawal of the rejection under 35 USC §103(a), is respectfully requested.

It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicant's agreement with or acquiescence in the Examiner's position.

In view of the foregoing remarks and amendments to the claims, Applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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Attachments: Petition and Fee Under 37 CFR 1.136(a);
Supplemental Information Disclosure Statement Under 37 CFR §§1.97 and 1.98.